

OPINION
51-9

March 27, 1951(OPINION)

AERONAUTICS

RE: Airmarking

The 1949 legislative session, by House Bill No. 54, appropriated to the Aeronautics Commission the amount of \$5,000.00, the fund being designated for "airmarking."

You have requested the opinion of this office as to the legal procedure which the Aeronautics Commission should take in awarding the airmarking contracts.

You have advised us orally that nearly fifty percent of this appropriation has been spent for airmarking. The procedure followed by the Commission for that expenditure was advertising for bids and awarding the contract to the lowest qualified bidder. You also stated that advertising was had for the remainder of the project, but that the Commission, in view of the tense international situation existing at that time, decided to reject all bids. Now, the Commission has the opportunity to contract at the 1950 bid price with the qualified firm which submitted the low bid at that time.

Specifically, you wish to know if the Commission may negotiate the contract to such properly qualified contractor without advertising anew for bids.

The Legislature has not set up a special procedure to guide the Commission in this airmarking work. Generally, where the Legislature has set up no special rules, the state officers are under the duty to use such business judgment as they would use in their private affairs in the transaction of business for the state or its agencies.

In light of the rising cost of such work, and in the business judgment of your Commission, it appears that a contract can be obtained if readvertising is not required.

It is our opinion that your Commission may negotiate the contract to such properly qualified contractor without advertising for bids.

ELMO T. CHRISTIANSON
Attorney General